THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION No.4645 of 2006

Dated: 10-04-2006

Between:

Penmastha Ananda Gajapathi Raju and two others.

..... PETITIONER

AND

The Mandal Revenue Officer,
Aswaraopeta Mandal, Khammam District
And five others.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION No.4645 of 2006

O R D E R:

The petitioners claim to be in possession and enjoyment of lands admeasuring Acs.17-19 guntas, 18-01 guntas, 13.16 guntas, 17.22 guntas and 17.30 guntas in Sy.Nos.73,69,70,71,72 respectively situated in Jammigudem village of Aswaropeta Mandal, Khammam District. It is stated that on 04-02-2006 the Mandal Revenue Officer, Aswaraopeta conducted a panchanama as to delivery of possession purportedly in pursuance of the order of ejectment dated

21-08-1997 passed by the Special Deputy Collector, Palvancha against the petitioners in exercise of powers conferred under Section 3 of the Andhra Pradesh Scheduled Areas Land Transfer Regulation Rules, 1969 as amended by Regulation 1 of 1970. The petitioners plead that the order dated 21-08-1997 was never communicated to them and they were also not served with any notice before passing the said order. It is also stated that they could obtain a copy of the order dated 21-08-1997 passed by the Special Deputy Collector, Palvancha only on 22-02-2006 and since they have been continuing in possession and enjoyment of the land in question by cultivating the same, this writ petition is filed seeking a declaration that the action of the respondents in dispossessing the petitioners as arbitrary and illegal.

This Court, on 09-03-2006, ordered *status quo* as on that date shall be maintained.

Learned Government pleader for Social Welfare at the outset raised an objection stating that against the order dated 21-08-1997 passed by the Special Deputy Collector, Palvancha a remedy of appeal is available, and therefore, the petitioners cannot maintain this writ petition without exhausting the alternative remedy available under the statute. Learned Government Pleader, under instructions, also states that as a matter of fact, the Special Deputy Collector, Palvancha passed orders in altogether eleven(11) cases on 21-08-1997 and three persons, who are similarly situated, have already preferred appeals before the Agent to the Government.

Having regard to the facts and circumstances of the case, particularly, keeping in view that the question whether the petitioners herein were served with any notice in the proceedings initiated before the third respondent-Special Deputy Collector, Palvancha and whether the copy of the order of ejectment dated 21-08-1997 was communicated to the petitioners, were all pure questions of fact, I am of the opinion that without exhausting efficacious alternative remedy of appeal, the petitioners cannot invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

Accordingly, the writ petition is disposed of granting leave and liberty to the petitioners to work out the alternative remedy of appeal available under law. Keeping in view the plea of the petitioners that there is a standing crop on the land in question, *status quo* ordered by this Court on
09-03-2006 shall be maintained for a period of six weeks from today. No costs.

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G.ROHINI,J

Dated:10-04-2006

Note: Issue C.C. in three days.

B/o

KLP